

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1560 of 1984

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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PATEL VALJI JETHABHAI

Versus

PATEL LIMBABHAI OKHABHAI  
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Appearance:

MR ND NANAVATI for Petitioner  
MR SUREN M SHAH for Respondent  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 11/02/2000

ORAL JUDGEMENT

1. This is a revision under section 29(2) of the Bombay Rent Act at the instance of the original tenant-defendant. The respondent-plaintiff-landlord had sued the defendant tenant for a decree of eviction on the grounds of arrears of rent and on the ground that the

tenant had made a permanent construction on the tenanted premises without authorisation. The trial court decreed the suit of the respondent landlord on the ground of arrears and dismissed the suit on a finding that the tenant had not made any such permanent construction without authorisation as averred by the plaintiff.

2. The petitioner-defendant thereupon preferred an appeal under section 29(1) of the Bombay Rent Act which also came to be dismissed.

3. It is pertinent to note that both the courts have recorded a finding of fact to the effect that the case fell under section 12(3)(a) of the Bombay Rent Act inasmuch as the rent was payable by the month, that there is no dispute regarding the amount of standard rent, raised within 30 days of receipt of the suit notice, that the tenant was in arrears of rent for more than six months, and that the tenant has neglected to make payment thereof within one month of the receipt of the statutory notice in this regard.

4. Before proceeding with the merits of the matter it would be pertinent to bear in mind the principles laid down by the Supreme Court while dealing with the revisions arising under section 29(2) of the said Act. The Supreme Court in the case of Patel Valmik Himatlal & Others Vs. Patel Mohanlal Muljibhai [1998(2) GLH 736 = AIR 1998 SC 3325], while approving and reiterating the principles laid down in its earlier decision in the case of Helper Girdharbhai Vs. Saiyad Mohmad Mirasaheb Kadri [AIR 1987 SC 1782], held that High Court cannot function as a court of appeal, cannot reappreciate the evidence on record, cannot discard concurrent findings of fact based on evidence recorded by the courts below, and cannot interfere on grounds of inadequacy or insufficiency of evidence, and cannot interfere, except in cases where conclusions drawn by the courts below are on the basis of no evidence at all, or are perverse. A different interpretation on facts is also not possible merely because another view on the same set of facts may just be possible.

5. I have heard the learned counsel for the petitioner tenant on all the grounds urged by him. I am not inclined to accept his submissions on the various grounds, and am to dismiss this Revision, which became apparent during the course of hearing and discussion. As a result, at this stage learned counsel for the petitioner submitted that detailed reasons in support of the present decision are not required and therefore I do

not discuss the submissions in greater detail. Learned counsel for the petitioner tenant, however, submits that time be granted to the petitioner tenant to vacate the premises upto 30th June 2000. Learned counsel for the respondent landlord does not dispute the reasonableness of this request. Accordingly the petitioner tenant is granted time to vacate the suit premises upto 30th June 2000 subject to the petitioner filing the usual undertaking in this court latest by 10th March 2000. It is clarified that there shall be no extension of time for the purpose of filing the undertaking.

6. This revision is accordingly disposed of. Rule is discharged with no order as to costs. Subject to the directions given hereinabove, interim relief stands vacated.

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